

Exhibit “H”

IN THE COURT OF COMMON PLEAS
BUCKS COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

* * *

BREM MOLDOVSKY, LLC : No. 2019-00793
and BREM MOLDOVSKY :

vs. :

LAW FIRM OF :
JONATHAN R. MILLER; :
ANDREW ELLNER; :
LIGHTBOX CAPITAL :
MANAGEMENT, LLC; :
and LIGHTBOX :
VENTURES, LLC :

* * *

BEFORE: THE HONORABLE ROBERT O. BALDI, J.

* * *

August 20, 2019
Doylestown, Pennsylvania

* * *

(Oral Argument)

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APPEARANCES:

BREM MOLDOVOSKY, ESQUIRE
Appearing Pro Se

EMMA KLINE, ESQUIRE
ADAM SILVERSTEIN, ESQUIRE
Counsel for Ellner and the Lightbox Defendants

JONATHAN R. MILLER, ESQUIRE
Appearing Pro Se

* * *

Beth A. Barkocy, CCR
Official Court Reporter

1 information about other cases other
2 than this particular case for me to
3 issue a blanket order, an injunction of
4 sorts against an attorney against
5 representing a specific client in other
6 litigation. It borders on absurd.

7 Furthermore, I'm assuming that
8 the defendant Ellner -- is there any
9 question but that the defendant Ellner
10 and Lightbox wish or desire to continue
11 with the representation of Mr. Miller?

12 MS. KLINE: Your Honor, myself
13 and Fox Rothschild are the only
14 attorneys who have represented
15 Mr. Ellner and the Lightbox entities in
16 Pennsylvania for the entirety of this
17 litigation. We entered our appearance
18 in April. All of the pleadings on
19 behalf of my clients, Mr. Ellner and
20 Lightbox, have been filed with my name
21 on them, with Fox Rothschild
22 letterhead, et cetera, et cetera.

23 THE COURT: So then let me ask
24 you this -- Counsel, you may remain
25 standing -- it's your contention that I

1 should be ordering Mr. Miller to not
2 represent Andrew Ellner in this case?
3 Because I'm hearing he is not
4 representing him in this case.

5 MR. MOLDOVSKY: Your Honor,
6 would you prefer me to stand?

7 THE COURT: I don't care,
8 whichever you want to do.

9 MR. MOLDOVSKY: He should not
10 in this case whether it's behind the
11 scenes, because that is what's
12 happening and that's how the lawyers,
13 including when I worked for Mr. Ellner,
14 we would work on matters --

15 THE STENOGRAPHER: Sir, I
16 can't understand what you're --

17 THE COURT: Try to answer my
18 question directly.

19 MR. MOLDOVSKY: Yes.

20 THE COURT: What is the nature
21 of the order I would issue in this
22 case?

23 MR. MOLDOVSKY: Not allowing
24 him to -- certainly including not
25 allowing him to represent those parties

1 against me in this case or in front of
2 the Pennsylvania disciplinary board,
3 which he's done, or in any Pennsylvania
4 forum or wherever you see -- as broadly
5 as you see appropriate, but certainly
6 for this case or any other Pennsylvania
7 forum.

8 THE COURT: I'm being told
9 right now, and you are not contending
10 otherwise, that -- and for purposes of
11 this litigation, Mr. Ellner and
12 Lightbox are represented by an
13 independent law firm separate and apart
14 from Mr. Miller. You agree with that,
15 right?

16 MR. MOLDOVSKY: As well as him
17 behind the scenes, yes.

18 THE COURT: Hold it. I can
19 talk -- if I'm a lawyer, I can talk to
20 any other lawyer I want and ask them
21 for counsel, advice, et cetera. If you
22 have some issue about him disclosing
23 something, something that he has
24 breached some duty, that is a different
25 point, but in terms of the

1 acts unprofessionally, in violation of
2 the requirements. I have an
3 affirmative duty to report them, but
4 I'm not -- how do I want to put this --
5 but it's not my job to police lawyers.

6 There is a distinction there.
7 If I see a lawyer doing stuff, you
8 know, I should report it, but it's the
9 disciplinary board that has the
10 obligation and responsibility for
11 disciplining lawyers, it's not me.
12 It's someone else that does that, so --
13 and I will tell you, I'm just --

14 Maybe this is inappropriate,
15 and I don't mind if you say that's
16 inappropriate, I'm not going to answer
17 that question. Honestly, I'm just
18 curious. Don't you have malpractice
19 insurance? Don't you have an insurance
20 company defending you on a malpractice
21 claim?

22 MR. MILLER: I do not, your
23 Honor.

24 THE COURT: You do not have
25 malpractice insurance?

1 MS. KLINE: As I indicated
2 before, this matter was initiated by
3 writ of summons, a complaint was
4 originally filed, we asserted on behalf
5 of Mr. Ellner and the Lightbox entities
6 preliminary objections, and two of the
7 most important preliminary objections
8 we're raising are that this Court,
9 respectfully, doesn't have personal
10 jurisdiction over Mr. Ellner and the
11 Lightbox entities, and then also for
12 improper venue.

13 THE COURT: Quite frankly, I
14 thought we were going to discuss it
15 today, but I can't get to it this
16 morning, and you want oral argument on
17 it?

18 MS. KLINE: Yes. Since that
19 time, Mr. Moldovsky has filed a first
20 amended complaint without any real
21 substantive changes, in our opinion.
22 We asserted essentially the same
23 preliminary objections, and now we are
24 on the second amended complaint and,
25 again, it has no substantive changes,

1 at least with respect to my clients,
2 Mr. --

3 THE COURT: But you haven't
4 filed formal preliminary objections to
5 the second amended complaint yet?

6 MS. KLINE: We will be.

7 THE COURT: But you haven't.
8 That's why I haven't ruled on that,
9 because I happened to notice that.

10 I'll issue an order that the
11 first preliminary objections are now
12 moot because he has filed an amended
13 complaint. You can proceed with the
14 preliminary objections to the second
15 amended complaint through the local
16 practice of praeciping the matter
17 forward.

18 MS. KLINE: Sure, so what I
19 wanted to discuss, hopefully, was the
20 issue that I think we'll obviously need
21 some discovery with respect to the
22 issue of personal jurisdiction.

23 THE COURT: You do.

24 MS. KLINE: I don't think it
25 will be much discovery, but my concern

1 discovery deadlines, production of
2 expert reports, et cetera.

3 If you're seriously going to
4 pursue a malpractice action and you're
5 really serious about this and you want
6 to do this litigation, then I want to
7 put a leash on it because without a
8 leash, you're going to just -- you are
9 going to go use judicial resources in
10 an abusive way, so I'm telling you, go
11 online. There are case management
12 orders that you can enter into by
13 agreement. Give serious consideration
14 into entering into an agreed upon case
15 management order. It's not something
16 that I'll necessarily deal with this
17 month or next month, but be aware of
18 that.

19 I, at some point, would expect
20 there is going to be a summary judgment
21 motion to figure out whether there
22 really is a malpractice claim. I would
23 welcome that, frankly, because you may
24 have pled things that could go to a
25 jury under a different theory, but I

CERTIFICATION

I hereby certify that the proceedings, evidence, and rulings are contained fully and accurately in the notes taken by me in the matter of the above cause and that this copy is a correct transcript of same.

Beth A. Barkocy, CCR
Official Court Reporter

Date: _____

The foregoing transcript of the proceedings before me is hereby approved and certified.

THE HONORABLE ROBERT O. BALDI, J.

Dated: _____